

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CHARLES E. ROSS §
v. § CIVIL ACTION NO. 6:09cv268
GUY SMITH, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Charles Ross, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. As Defendants, Ross named Guy Smith, a program specialist III, Dr. David Langston, a prison dentist, Dr. Charles Murray, Vice-President of Offender Services for the University of Texas Medical Branch - Correctional Managed Care, and Dr. Jerry Toole, former Chairman of the Dental Utilization Quality Review Committee.

Guy Smith and Dr. Langston filed motions for summary judgment which were granted on March 4, 2011. Dr. Murray filed a motion for summary judgment which was granted on September 13, 2011. Dr. Toole filed a motion for summary judgment on October 31, 2011, and on January 9, 2012, the Magistrate Judge issued a Report recommending that Dr. Toole’s motion be granted as well. The Magistrate Judge concluded that the summary judgment evidence showed that Ross did not meet the criteria for dentures and that Dr. Toole had acted reasonably and thus was entitled to the defense of qualified immunity. Ross received a copy of the Magistrate Judge’s Report on January 13, 2012, but filed no objections thereto; accordingly, he is barred from *de novo* review

by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 82) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendant Dr. Jerry Toole's motion for summary judgment (docket no. 81) is hereby GRANTED and that the above-styled civil action be and hereby is DISMISSED with prejudice. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

It is SO ORDERED.

SIGNED this 16th day of February, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE